

14-43. Planning and Implementing Off-Site Response Actions

1. **AUTHORITY:** Pursuant to Section 121(d)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C § 9621(d)(3), and in accordance with 40 CFR 300.440, the authority to:
 - a. Determine the acceptability, and continued acceptability, of any facility being considered for the off-site treatment, storage, or disposal of CERCLA waste (40 CFR 300.440(d)(1));
 - b. Issue an initial determination of unacceptability if a facility does not satisfy the criteria for releases and relevant violations, notify the facility owner or operator of the initial determination of unacceptability, and notify the responsible agency in the State in which the facility is located of the unacceptability (40 CFR 300.440(d)(1));
 - c. Shorten or eliminate the 60-day review period in extraordinary circumstances and notify the facility owner or operator of the date of unacceptability (40 CFR 300.440(d)(9));
 - d. Provide for, and conduct, an informal conference if requested by the owner or operator of a facility in receipt of an initial determination of unacceptability (40 CFR 300.440(d)(4));
 - e. Decide if the information provided either at the informal conference or in written comments is sufficient to show that a determination of acceptability would be appropriate (40 CFR 300.440(d)(6));
 - f. Extend the 60-day review period if more time is required to review the submissions, and notify the facility owner or operator of the extension (40 CFR 300.440(d)(8)); and
 - g. Reconsider an initial determination of unacceptability for a facility and notify the facility owner or operator of the decision (40 CFR 300.440(d)(7)).
2. **TO WHOM DELEGATED:** All of the authorities listed in Paragraph 1 have been delegated to the Regional Administrator. Certain of those authorities are further delegated as follows:
 - a. The authorities to make determinations regarding acceptability under 1.a. are delegated to the Branch Chief of the Regional Off-Site Contact (ROC).

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- b. The authorities to issue initial notices of unacceptability under 1.b. are delegated to the ROC's Branch Chief.
 - c. The authority to shorten or eliminate the 60-day review period under 1.c. is delegated to the ROC's Division Director.
 - d. The authority to provide and conduct an informal conference under 1.d. is delegated to the ROC.
 - e. The authority to determine the sufficiency of information presented under 1.e. is delegated to the ROC's Division Director.
 - f. The authority to extend the 60-day review period under 1.f. is delegated to the ROC's Division Director.
 - g. The authority for reconsideration under 1.g. remains with the Regional Administrator. At the Regional Administrator's discretion, the Regional Judicial Officer will assist with the reconsideration process.
3. LIMITATIONS. In issuing initial determinations of unacceptability under 1.b. and deciding sufficiency of information under 1.e., the decision maker shall obtain the concurrence of the Regional Counsel or the Regional Counsel's designee. The ROC shall also consult with the Regional Counsel or Regional Counsel's designee in conducting the informal conference.

If the initial determination of unacceptability under authority 1.b. also includes a decision to shorten or eliminate the 60-day review period, the person delegated that authority under 2.c. shall also issue the initial determination of unacceptability.

If the authority under 1.g. is delegated under 4(b) below, the Division Director shall exercise that authority with the assistance of the Regional Judicial Officer and obtain the concurrence of the Regional Counsel or the Regional Counsel's designee.

4. REDELEGATION AUTHORITY.

- a. The authority to make determinations under 1.a. may be redelegated down to the ROC.
- b. The authority for reconsideration under 1.g. may be redelegated down to the ROC's Division Director on a case by case basis.